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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JAMES LOWELL MORGAN II,
Inmate Booking No. 1370477,

Plaintiff,

vs.

UNKNOWN DEFENDANTS,

Defendants.

Civil No. 13cv1825 WQH (NLS)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEE REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

James Lowell Morgan, II ("Plaintiff"), currently housed at the George Bailey Detention Facility located in San Diego, California, and proceeding pro se, has filed a civil action pursuant to 42 U.S.C. § 1983.

I. Failure to Pay Filing Fee or Request IFP Status

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$350 filing pursuant to 28 U.S.C. § 1914(a). In addition, all parties filing civil actions must pay an additional administrative fee of \$50. An action may proceed despite a party's failure to pay the filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28

1 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez*
2 *v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). If a party is granted IFP status, the \$50
3 administrative fee is waived.

4 Plaintiff has not prepaid the \$350 filing fee and \$50 administrative fee required to
5 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28 U.S.C.
6 § 1915(a). Therefore, the action cannot yet proceed. *Id.*

7 **II. Conclusion and Order**

8 For the reasons set forth above, the Court hereby:

9 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350
10 filing fee, along with the \$50 administrative fee or file a Motion to Proceed IFP pursuant to 28
11 U.S.C. §§ 1914(a) and 1915(a); and

12 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is filed to:
13 (a) prepay the entire \$350 civil filing fee and \$50 administrative fee in full; *or* (b) complete and
14 file a Motion to Proceed IFP which includes a certified copy of his trust account statement for
15 the 6-month period preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. CAL.
16 CIVLR 3.2(b). If Plaintiff chooses to file a Motion to Proceed IFP which the Court later grants,
17 the \$50 administrative fee will be waived.

18 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this
19 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*
20 *Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee, along with the \$50
21 administrative fee or complete and submit the enclosed Motion to Proceed IFP within that time,
22 this action shall remain dismissed without prejudice and without further Order of the Court.

23
24 DATED: 8/14/13


25 HON. WILLIAM Q. HAYES
26 United States District Judge
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